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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,370	05/11/2007	Matthew Au	PA040001	8003
24498	7590	12/28/2009		
Robert D. Shedd, Patent Operations THOMSON Licensing LLC P.O. Box 5312 Princeton, NJ 08543-5312			EXAMINER TILLERY, RASHAWN N	
			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 12/28/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/584,370	AU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	RASHAWN TILLERY	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 October 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 and 18-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7 and 18-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>5/5/09</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. This communication is responsive to the Amendment filed 10/9/2009.
2. Claims 1- 7 and 18-27 are pending in this application. Claims 1 and 25 are independent claims. In the instant Amendment, claims 1 and 25 were amended. This is a Non-Final action on the RCE filed 10/9/2009.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 5/5/09 has been considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-7 and 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mercer et al (“Mercer”, US7043477) in view of Ward (US 6526411).

Regarding claim 1, Mercer discloses a device for playback of multimedia files, including means for changing a sorting order and/or a playback order of a plurality of multimedia files from a current sort order and/or a current playback order to a new sorting and/or new playback order, wherein upon changing the sorting order and/or the playback order of the multimedia files the currently selected multimedia file is kept and

the new sorting order and/or playback order is determined by at least one property of the currently selected multimedia file, and wherein the means for changing the sorting order and/or the playback order include a button (see figs 7 and 11 where the user interface is shown) for changing the order by running through a predefined sequence of properties of the currently selected multimedia file (see col. 5, lines 22-36 where shuffling and repeating play lists is discussed).

While Mercer discloses changing the sorting order of a current playlist to create a new playback order, Mercer does not explicitly disclose changing the sorting order includes one or more multi-media files that are not included in the current sorting order and/or the current playback order. However, Ward discloses a method for creating a dynamic playlist that allows playlist items to be dynamically added to or subtracted from a current playlist (see col. 1, lines 43-53; col. 2, lines 61-67; and col. 4, lines 25-66). It would have been obvious to an artisan at the time of the invention to modify Mercer's user interface by including Ward's teachings in an effort to allow users to automatically have their playlists updated with new content (see col. 4, lines 50-58).

Regarding claim 2, Mercer discloses including means for giving a feedback of the sorting order and/or the playback order (see col. 5, lines 22-36 where viewing play lists is discussed).

Regarding claim 3, Mercer discloses the means for giving a feedback of the sorting order and/or the playback order give an acoustical feedback (see col. 5, lines 22-36 where audio is discussed).

Regarding claim 4, Mercer discloses the means for giving a feedback of the

sorting order and/or the playback order give an optical feedback (see col. 5, lines 22-36 where the image sequence is discussed).

Regarding claim 5, Mercer discloses the means for giving a feedback of the sorting order and/or the playback order include a display (see fig 10, #188).

Regarding claim 6, Mercer discloses the display displays information about at least one multimedia file of the plurality of multimedia files (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed).

Regarding claim 7, Mercer discloses the display displays information about at least two multimedia files of the plurality of multimedia files, and wherein means are provided for marking a currently selected multimedia file (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed; also col. 19, lines 49 to col. 20, line 6).

Regarding claims 18-20, Mercer does not explicitly disclose the means for changing the sorting order and/or the playback order of the currently selected multimedia file. However, Official Notice is taken that the use of a specific button or multiple buttons for rearranging the playback order of a multimedia file is well known in the art. It would have been obvious to an artisan at the time of the invention to include any variation of such a feature with Mercer's multimedia player as a matter of design choice.

Regarding claim 21, Mercer discloses the properties of the multimedia files used for determining the sorting order and/or the playback order are user-definable (see col. 20, lines 7-41 where user selection is discussed).

Regarding claim 22, Mercer discloses the properties of the multimedia files used

for determining the sorting order and/or the playback order are included in the multimedia files (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed).

Regarding claim 23, Mercer discloses the properties of the multimedia files used for determining the sorting order and/or the playback order are stored in the device for playback of multimedia files (see col. 20, lines 7-41 where the music library is discussed).

Regarding claim 24, Mercer discloses the properties of the multimedia files used for determining the order include at least one of artist, album, genre, release year, number of accesses, last access, creation date, length, and weighting (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed; also col. 19, lines 49 to col. 20, line 6).

Regarding claim 25, Mercer discloses a method for creating a playback order for a multimedia device for playing back media files, the method comprising the steps of:

playing back a multimedia file on said device (see col. 4, lines 1-27 where multimedia playback software and devices are discussed);

creating a first playback order of a first plurality of multimedia files from a library of multimedia files in response to a first user activated command and a first property of said multimedia file being played back (see fig 3 where “GROUP 1” “GROUP 2” and “GROUP 3” play lists are shown; also see col. 5, line 64 to col. 6, line 21 where it is discussed that a play list can be grouped by album, artist, genre or date); and

creating a second playback order of a second plurality of multimedia files from a library of multimedia files in response to a second user activated command and a second property of said multimedia file being played back where said second property is different from said first property, said first and second plurality of multimedia files are from the same library of multimedia files, and said second plurality of multimedia files contains at least one multimedia file which is different from the multimedia files in said first plurality of multimedia files (see fig 3 where “GROUP 1” “GROUP 2” and “GROUP 3” play lists are shown; also see col. 5, line 64 to col. 6, line 21 where it is discussed that a play list can be grouped by album, artist, genre or date; Examiner notes that it is possible that each of GROUP 1, GROUP 2 and GROUP 3 could contain different multimedia files if user creates a play list where all songs are grouped by artist or another play list where all images are grouped by month).

Regarding claim 26, Mercer discloses the selection of said first and second properties are selected from a plurality of properties (see col. 5, line 64 to col. 6, line 21 where it is discussed that a play list can be grouped by album, artist, genre or date) and an order of properties in said plurality of properties is predefined so that the selection of said property will come before the selection of said second property (see col. 6, lines 14-21 where sequential navigation of a group is discussed).

Regarding claim 27, Mercer discloses the selection of said second property will come before said first property in the order of said properties only if a user selects a reverse order option (see col. 6, lines 14-21 where sequential navigation- “forward and backward”- of a group is discussed).

### ***Response to Arguments***

6. Applicant's arguments filed 10/9/2009 have been fully considered but they are not persuasive.

Regarding Applicant's arguments concerning Mercer failing to disclose the second playback order is created "in response to [...] a second property of the multimedia file being played back," the Examiner respectfully disagrees.

Mercer discloses the playlist can be grouped by album, artist, date, etc. (see col. 5, line 64 to col. 6, line 21 where it is discussed that a play list can be grouped by album, artist, genre or date). Thus, any two of the three groupings- e.g. album, artist or date- could be interpreted as a first and second property.

Mercer further discloses in fig 3, Group 1 containing five files, Group 2 containing six files, and Group 3, containing two files. Clearly, both Groups 1 and 2 contain files which are not contained in Group 3 since Group 3 contains at least three fewer files. Therefore, Mercer does not disclose "the first and second pluralities of multimedia files are identical," and "all the groups of the playlist include all files of the playlist, but arranged in accordance with a different order" as alleged in the arguments.

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

8. The Examiner has included specific teaching that discloses the arrangement of features in claims 18-20 per Applicant's request.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Robbin (US 2002/0089529).

Regarding claim 18, Robbin discloses a plurality of buttons (44a and 44b) for changing the sorting order of media files in a user interface (see paragraph [0014] and [0017]). Through the repeated selection of the buttons, the sorting order could be changed by running in opposite directions through a predefined sequence.

Regarding claim 19, Robbin discloses the means for changing the sorting order include a specific button for each property of the currently selected multimedia file which is used for determining the sorting order (see paragraph [0014] where categories, 42a-c and corresponding heading buttons 44a-c are discussed).

Regarding claim 20, Robbin discloses the means for changing the sorting order and the means for changing the playback order are the same since the order in which items are sorted could be the order in which the media files are played back (see paragraph [0027]).

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RASHAWN TILLERY whose telephone number is 571-272-6480. The examiner can normally be reached on M-F 8:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RASHAWN TILLERY/  
Examiner, Art Unit 2174

/Adam L Basehoar/  
Primary Examiner, Art Unit 2178